

CCRB INVESTIGATIVE RECOMMENDATION

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|---|-------------------------------------|---------------------------|--|------------------------------------|--|
| Investigator: Eric Rigie | Team: Squad #3 | CCRB Case #: 201510644 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Tuesday, 12/15/2015 8:30 PM | Location of Incident: § 87(2)(b) | Precinct: 105 | 18 Mo. SOL 6/15/2017 | EO SOL 6/15/2017 | |
| Date/Time CV Reported Fri, 12/18/2015 11:12 AM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Fri, 12/18/2015 11:12 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|------------------------|--------|--------|---------|
| 1. POM Julio Batista | 17763 | 951530 | 107 PCT |
| 2. POM Victor Reynoso | 13469 | 942873 | 107 PCT |
| 3. POM Richard Tarver | 23842 | 943860 | 105 PCT |
| 4. POM Gregory Coppola | 08739 | 957486 | 105 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|---|-----------------------------|
| A.POM Julio Batista | Abuse: Police Officer Julio Batista forcibly removed § 87(2)(b) to the hospital. | § 87(2)(b) |
| B.POM Victor Reynoso | Abuse: Police Officer Victor Reynoso forcibly removed § 87(2)(b) to the hospital. | § 87(2)(b) |
| C.POM Julio Batista | Force: Police Officer Julio Batista used physical force against § 87(2)(b) | § 87(2)(b) |
| D.POM Victor Reynoso | Force: Police Officer Victor Reynoso used physical force against § 87(2)(b) | § 87(2)(b) |
| E.POM Victor Reynoso | Force: Police Officer Victor Reynoso used physical force against § 87(2)(b) | § 87(2)(b) |
| F.POM Richard Tarver | Abuse: Police Officer Richard Tarver threatened § 87(2)(b) with the use of force. | § 87(2)(b) |
| § 87(4-b), § 87(2)(g) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

Case Summary

On December 18, 2015, § 87(2)(b) filed this complaint with the CCRB via telephone.

On December 15, 2016, at approximately 8:30 p.m., § 87(2)(b) was inside § 87(2)(b) § 87(2)(b). § 87(2)(b) observed resident § 87(2)(b) acting violent and aggressive with another resident and then attempt to follow that unknown resident. § 87(2)(b) directed Case Manager § 87(2)(b) to call 911 to report § 87(2)(b) as an Emotionally Disturbed Person (EDP). PO Julio Batista and PO Victor Reynoso, of the 107th Precinct, responded to this call, which took place within the confines of the 105th Precinct. On arriving at the scene, PO Batista and PO Reynoso were met by § 87(2)(b) and staff member § 87(2)(b) who escorted PO Batista and PO Reynoso to § 87(2)(b) apartment. PO Batista and PO Reynoso entered § 87(2)(b) bedroom and grabbed her. § 87(2)(b) responded by yelling and struggled with the officers in an attempt to pull away from them and prevent them from handcuffing her by pushing their hands away. PO Batista and PO Reynoso responded to this resistance by pushing § 87(2)(b) down onto her bed and flipping her onto her stomach. After a struggle, PO Batista and PO Reynoso handcuffed § 87(2)(b) face down on her bed and held her down using their knees on her back (**Allegations A, B, C, and D**). § 87(2)(b) was then sat up on her bed in handcuffs. After § 87(2)(b) sat up on her bed, PO Richard Tarver and PO Gregory Coppola, of the 105th Precinct, arrived on the scene and entered § 87(2)(b) bedroom. § 87(2)(b) continued to yell and curse at the officers and then spit on PO Batista. PO Batista reacted by leaving the room while PO Reynoso allegedly responded by punching § 87(2)(b) once in the face and asking, “You want to spit on someone right?” (**Allegation E**). PO Reynoso’s punch allegedly caused § 87(2)(b) to sustain a bloody nose. § 87(2)(b) reacted to the punch by yelling, “They punched me § 87(2)(b) Did you see them punch me?” § 87(2)(b) also yelled, cursed, and made racial statements. PO Tarver then allegedly drew and pointed his Taser at § 87(2)(b) and asked, “Do you want to get Tasered?” (**Allegation F**). Two unknown EMTs then arrived on the scene and the EMTs and officers escorted § 87(2)(b) out of the building. § 87(2)(b) was then transported to § 87(2)(b) by ambulance with PO Batista escorting her.

§ 87(2)(b) confirmed that there was no security footage within § 87(2)(b) apartment, but there may have been footage in the hallway outside her apartment and the elevator. § 87(2)(b) agreed to take steps to hold any video footage until the necessary court order could be prepared.

Closure of this case was delayed past 90 days due to § 87(2)(b) not being available to interview until a month after filing this complaint and the necessity to obtain court orders for medical records from the FDNY, the TSINY incident report, and video footage. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Mediation, Civil and Criminal Histories

- This case was deemed not suitable for mediation because of § 87(2)(b) [REDACTED]
- On April 1, 2016, a FOIL request was submitted to the Office of the Comptroller for any notices of claim filed by § 87(2)(b) or § 87(2)(b) and will be added to the case file upon receipt (01 Board Review).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

Civilian and Officer CCRB Histories

- This is § 87(2)(b) and § 87(2)(b) first CCRB complaint (03 Board Review).
- PO Julio Batista has been a member of the NYPD for four years and has seven prior CCRB cases involving eight allegations with no substantiated allegations. § 87(2)(g) [REDACTED]
- PO Victor Reynoso has been a member of the NYPD for 9 years and has two previous CCRB cases involving four allegations with no substantiated allegations. § 87(2)(g) [REDACTED]
- PO Tarver has been a member of the NYPD for 9 years and has four other CCRB cases involving 9 allegations including one substantiated allegation for a search. The CCRB recommended disposition for this allegation was instructions, which was subsequently applied by the NYPD. § 87(2)(g) [REDACTED]

Potential Issues

- § 87(2)(b) court orders were required and are still pending for the § 87(2)(b) incident report and video footage. A court order was also required and is still pending for § 87(2)(b) medical records from § 87(2)(b) and the FDNY due to § 87(2)(b) inability to sign a HIPAA form.
- § 87(2)(b) stated that nothing happened during this incident. § 87(2)(g) [REDACTED]
- No AIDED report was prepared for this incident for either § 87(2)(b) or PO Batista.
- Although § 87(2)(b) stated that five officers were involved in this incident, the investigation subsequently determined that there were only four.

Findings and Recommendations

Allegation A –Abuse of Authority: Police Officer Julio Batista forcibly removed § 87(2)(b) to the hospital.

Allegation B Abuse of Authority: Police Officer Victor Reynoso forcibly removed § 87(2)(b) to the hospital.

Allegation C –Force: Police Officer Julio Batista used physical force against § 87(2)(b)

Allegation D –Force: Police Officer Victor Reynoso used physical force against § 87(2)(b)

§ 87(2)(b) said that § 87(2)(b) who is paranoid and schizophrenic, became violent and aggressive with a male resident who she had a previous relationship with. When § 87(2)(b) followed this unknown resident to the elevator, she directed § 87(2)(b) to call 911. § 87(2)(b) added that § 87(2)(b) had to be transported to the hospital as an EDP during multiple prior incidents. § 87(2)(b) said that PO Batista, PO Reynoso, PO Tarver, and PO Coppola went into § 87(2)(b) room at the same time. § 87(2)(b) was lying on her bed crying. The officers collectively told § 87(2)(b) that she had to get up, but she failed to comply and so they grabbed her by the arms. § 87(2)(b) resisted the officers by pushing their hands away and repeatedly yelling, “I’m a foster child!” § 87(2)(b) never attempted to strike any of the officers. PO Batista and PO Reynoso restrained § 87(2)(b) by holding her on her bed using their knees on her back. The same two officers then handcuffed her using zip-ties. § 87(2)(b) observed the handcuffing from the doorway of § 87(2)(b) bedroom. § 87(2)(b) witnessed the beginning of the handcuffing and then moved away from the doorway, because he did not want to watch anymore (04 Board Review).

In a phone statement, § 87(2)(b) corroborated that § 87(2)(b) was acting violent and aggressive. § 87(2)(b) said that PO Batista and PO Reynoso asked § 87(2)(b) to step out of her bedroom, but she refused and instead yelled. PO Batista and PO Reynoso entered § 87(2)(b) bedroom and used force to restrain § 87(2)(b) because she “struggled with them.” § 87(2)(b) never attempted to strike either officer. § 87(2)(b) said that he and § 87(2)(b) watched the beginning of the handcuffing and then moved away from the doorway out of fear that § 87(2)(b) might run out the door (05 Board Review).

Upon reviewing the 911 call for EVENT# § 87(2)(b) a female caller identifies herself as a staff member and tells the dispatcher that a black female resident, with a psychiatric history, was acting physically aggressive and threatening another resident. The female was upstairs in her room in § 87(2)(b) and had no weapons or injuries. The NYPD dispatcher informed PO Batista and PO Reynoso that there was a black, female EDP at the incident location. The EDP had no weapons or injuries, but had a psychiatric history that was described as violent. The dispatcher asked PO Tarver and PO Coppola to back PO Batista and PO Reynoso immediately after the initial call (06 and 07 Board Review).

PO Batista said that § 87(2)(b) and § 87(2)(b) met them when they arrived on the scene and informed that that § 87(2)(b) had been acting violent and aggressive. PO Batista said

that he and PO Reynoso arrived on the scene first and were escorted by § 87(2)(b) and § 87(2)(b) to § 87(2)(b) apartment. § 87(2)(b) announced to § 87(2)(b) that the police were present and unlocked her bedroom door with a key. PO Batista entered her bedroom first with PO Reynoso right behind him. § 87(2)(b) immediately charged at PO Batista and punched him in the shoulder with a closed fist. PO Batista responded by pushing § 87(2)(b) back using his arm and § 87(2)(b) fell onto her bed. When she fell onto her bed, § 87(2)(b) may have hit her head on part of the bed or the wall. § 87(2)(b) continued to physically resist on the bed by attempting to strike and kick him and PO Reynoso. § 87(2)(b) also kicked PO Batista in the chest. After an unknown, short amount of time, PO Batista and PO Reynoso were able to place § 87(2)(b) onto her stomach and handcuff her. § 87(2)(b) was then sat up on the bed and PO Batista observed that she was bleeding from her nose. PO Batista believed that § 87(2)(b) and § 87(2)(b) were inside the bedroom during the handcuffing, but he was not sure (08 Board Review).

PO Reynoso said that on arriving on the scene § 87(2)(b) informed them that § 87(2)(b) was an EDP. PO Reynoso generally corroborated PO Batista's statement, but described § 87(2)(b) bed as a hospital style bed with a wooden frame, foot piece, and head piece and clarified that § 87(2)(b) struck her head on part of the frame. After § 87(2)(b) was in handcuffs and sat up onto the bed, PO Reynoso observed § 87(2)(b) bleeding from either her nose or her ear. PO Reynoso said that § 87(2)(b) and § 87(2)(b) remained outside the bedroom during the handcuffing (09 Board Review).

PO Tarver and PO Coppola both confirmed that they arrived on the scene after § 87(2)(b) was handcuffed and never observed any injuries on § 87(2)(b) (10 and 11 Board Review).

P.G. 216-05 says that officers must take an Emotionally Disturbed Person (EDP) into protective custody when they reasonably believe that person is likely to injure himself or others (12 Board Review).

P.G. 203-11 says that officers must use the minimum force necessary to subdue civilians (13 Board Review).

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[REDACTED]

Allegation E –Force: Police Officer Victor Reynoso used physical force against § 87(2)(b)

[REDACTED]

Allegation F –Abuse of Authority: Police Officer Richard Tarver threatened § 87(2)(b) with the use of force.

§ 87(2)(b) said that after § 87(2)(b) was handcuffed and sat up on the bed, she continued to yell profanity at the officers calling them “assholes” and yelling unknown racial comments toward PO Batista, PO Reynoso, and PO Coppola. § 87(2)(b) then leaned forward and spat in the face of PO Batista, who appeared shocked, but did not immediately say or do anything. PO Reynoso then punched § 87(2)(b) in her face and asked, “You want to spit of someone right?” § 87(2)(b) sustained a bloody nose and had lots of blood on her face. § 87(2)(b) did not know whether § 87(2)(b) sustained any other injuries, but § 87(2)(b) confirmed that § 87(2)(b) nose was not broken. § 87(2)(b) reacted by yelling, “They punched me § 87(2)(b) Did you see them punch me?” § 87(2)(b) also continued to curse and yell racial comments toward PO Batista, PO Reynoso, and PO Coppola. However, § 87(2)(b) was not moving on the bed, made no physical threats, and made no comments that she would fight the officers. PO Tarver then aimed his Taser at § 87(2)(b) chest and asked, “Do you want to be Tasered?” § 87(2)(b) observed a red dot from the Taser’s sight on § 87(2)(b) chest. PO Tarver never Tasered § 87(2)(b) but the threat further agitated her. § 87(2)(b) statement was generally consistent with her previous telephone statement. In her telephone statement, she also mentioned seeing saliva and blood on PO Batista’s uniform (04 Board Review).

In an unverified phone statement, § 87(2)(b) said that he did not observe § 87(2)(b) spit on PO Batista, but said that PO Batista left the bedroom and informed him and § 87(2)(b) that § 87(2)(b) had spit on him. § 87(2)(b) observed blood on PO Batista’s uniform jacket and believed that to be from § 87(2)(b) spitting on him. § 87(2)(b) did not observe any injuries on § 87(2)(b) face and did not observe PO Reynoso strike her face. However, § 87(2)(b) said that he stepped away from the doorway during the handcuffing and did not observe everything. § 87(2)(b) did hear § 87(2)(b) yell more than once that either PO Reynoso or PO Batista had hit her in the face. In addition to these statements, § 87(2)(b) was generally yelling and agitated and so he and § 87(2)(b) tried to calm her

down. § 87(2)(b) never observed any officer holding a Taser or hear any officer make any threats to Tase § 87(2)(b) (05 Board Review).

PO Reynoso said that § 87(2)(b) was bleeding from her nose or ear due to an injury she sustained during the handcuffing process. Once § 87(2)(b) was handcuffed, § 87(2)(b) came into the bedroom, but § 87(2)(b) remained outside in the living room of the apartment. When she was sat up on the bed in handcuffs, § 87(2)(b) was still agitated and cursing and kept standing up. § 87(2)(b) repeatedly told § 87(2)(b) to sit down and relax, but the officers did not say much and made no physical contact with § 87(2)(b). § 87(2)(b) then spit in PO Batista's face. PO Batista reacted by looking at PO Reynoso and then leaving the bedroom. § 87(2)(b) then made a noise with her mouth indicating that she intended to spit again, stood up, and looked at PO Reynoso. PO Reynoso responded by grabbing § 87(2)(b) by her shoulders using both hands, sitting her back down onto the bed, and saying, "If you're going to spit on me, I'm basically going to have ESU come and wrap you up." PO Reynoso denied that he ever punched § 87(2)(b) in the face or made any physical contact with her face. Neither § 87(2)(b) nor any staff member ever complained that PO Reynoso punched § 87(2)(b) in the face, including when he later spoke to § 87(2)(b) and § 87(2)(b) to record their information. § 87(2)(b) never complained of any injuries to her face, but yelled that she was going to sue PO Reynoso and the other officers for handcuffing her. PO Reynoso did not recall whether PO Tarver or any officers on the scene were equipped with a Taser and did not observe any officers draw a Taser. PO Reynoso did not hear any officers ask § 87(2)(b) "Do you want to be Tasered?" Neither § 87(2)(b) nor any other individual ever complained that any officer threatened to use force against § 87(2)(b) (09 Board Review).

PO Batista confirmed PO Reynoso's statement that he left the bedroom immediately after § 87(2)(b) spit on him. PO Batista did not know how the other officers responded to her spitting and did not observe PO Reynoso punch § 87(2)(b) in the face. PO Batista never heard § 87(2)(b) or any staff member complain that PO Reynoso punched § 87(2)(b) in the face. PO Batista never later learned that PO Reynoso punched § 87(2)(b) in the face. PO Batista did not recall PO Tarver or any of the officers present being equipped with a Taser and did not hear any officers threaten to Tase § 87(2)(b). Neither § 87(2)(b) nor any individual complained that any officer threatened to use force against § 87(2)(b) (08 Board Review).

PO Tarver said that when he and PO Coppola entered the bedroom, § 87(2)(b) was sitting on her bed in handcuffs and did not appear to be injured. PO Tarver did not recall whether § 87(2)(b) had been bleeding when he arrived on the scene. § 87(2)(b) demeanor was irate and she was kicking her feet, but never struck any officers. PO Tarver confirmed that PO Batista reacted to § 87(2)(b) spitting on him by leaving the room to clean his face. PO Tarver never observed PO Reynoso punch § 87(2)(b) in the face or make any physical contact with her immediately after § 87(2)(b) spit on PO Batista. PO Reynoso made no response to § 87(2)(b) spitting on PO Batista. PO Tarver never heard PO Reynoso ask § 87(2)(b) "You want to spit on someone right?" PO Tarver did not recall PO Reynoso making any statements in response to § 87(2)(b) spitting on PO Batista. Neither § 87(2)(b) nor any individual ever complained that PO Reynoso

punched § 87(2)(b) in the face. § 87(2)(b) never complained of any injuries. PO Tarver was the only officer equipped with a Taser during this incident, but he never drew his Taser. PO Tarver never asked § 87(2)(b) “Do you want to be Tasered?” or made any threats to Tase § 87(2)(b) (10 Board Review).

PO Coppola generally corroborated PO Tarver’s testimony, but said that when he and PO Tarver arrived on the scene, § 87(2)(b) was lying face down on her bed in handcuffs and PO Batista and PO Reynoso were watching her to ensure that she did not leave the room. PO Coppola also said that he and the other officers reacted to § 87(2)(b) spitting by stepping back and instructing her not to spit. PO Coppola confirmed that a staff member was standing outside the bedroom door when § 87(2)(b) spit. PO Coppola did not recall whether PO Tarver was equipped with a Taser during this incident, but knew that PO Tarver was trained in the use of a Taser. PO Coppola added that he, PO Batista, and PO Reynoso were not equipped with Tasers during this incident (11 Board Review).

P.G. 203-11 says that officers must use the minimum force necessary (13 Board Review).

P.G. 212-117 says that officers should only employ Tasers against individuals who are actively physically resisting, exhibiting active physical aggression, or to prevent individuals from physically injuring themselves or others actually present (14 Board Review).

§ 87(2)(g)

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Squad: 3

Investigator: _____
Signature Print Date

Squad Leader: _____
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Reviewer: _____
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